

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	<u>AMENDED FINAL</u>
- v. -	:	<u>ORDER OF FORFEITURE</u>
	:	
BRIAN GILDER,	:	S1 23 Cr. 134 (VSB)
	:	
Defendant.	:	
	:	
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WHEREAS, on or about October 12, 2023, this Court entered a Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment (the “Preliminary Order of Forfeiture”) (D.E. 76), which, *inter alia*, ordered the forfeiture to the United States of all right, title and interest of BRIAN GILDER (the “Defendant”) in the following property:

- a. \$3,682,429.25 in United States currency formerly on deposit in California Bank & Trust, a division account of Zions Bancorporation, N.A., account number 7200225370, held in the name of Johnson, Bjornlie & Merritt Clients Trust Account, seized by the Government on or about March 23, 2023;

(the “Specific Property”);

WHEREAS, the Preliminary Order of Forfeiture directed the United States to publish, for at least thirty (30) consecutive days, notice of the Preliminary Order of Forfeiture, notice of the United States’ intent to dispose of the Specific Property, and the requirement that any person asserting a legal interest in the Specific Property must file a petition with the Court in accordance with the requirements of Title 21, United States Code, Sections 853(n)(2) and (3). Pursuant to Section 853(n), the United States could, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Specific Property and as a substitute for published notice as to those persons so notified;

WHEREAS, the provisions of Title 21, United State Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, require publication of a notice of forfeiture and of the Government's intent to dispose of the Specific Property before the United States can have clear title to the Specific Property;

WHEREAS, the Notice of Forfeiture and the intent of the United States to dispose of the Specific Property was posted on an official government internet site (www.forfeiture.gov) beginning on November 9, 2023, for thirty (30) consecutive days, through December 8, 2023 pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions and proof of such publication was filed with the Clerk of the Court on January 21, 2024 (D.E. 99);

WHEREAS, on or about October 31, 2023, the Government sent direct notice of the Order of Forfeiture via United States Postal Service certified mail to:

Darryl Cohen
c/o Ed Kim
Krieger Kim & Lewin LLP
350 Fifth Avenue, 77th Floor
New York, NY 10118

Patrick Mahoney, Esq.
The Law Offices of Patrick R. Mahoney, P.C.
9454 Wilshire Blvd., Suite 525
Beverly Hills, CA 90212

Johnson, Bjornlie, & Merritt
8383 Wilshire Blvd., Suite 240
Beverly Hills, CA 90211

Mark Gilder
Chatsworth, CA 91311

(collectively, the “Noticed Parties”);

WHEREAS, an individual identified as “Athlete-1” in Superseding Information advised the Government of his ownership interest in \$97,777.36 of the Specific Property (the “Athlete-1 Funds”);

WHEREAS, an individual identified as “Athlete 2” in the Superseding Information advised the Government his ownership interest in \$50,000.00 in the Specific Property (the “Athlete-2 Funds”);

WHEREAS an individual identified as “Athlete 3” in the Superseding information advised the Government of his ownership interest in \$545,000.00 in the Specific Property (the “Athlete-3 Funds”, collectively with the Athlete-3 Funds and Athlete-2 Funds, the “Athlete Funds”);

WHEREAS, on or about November 17, 2023 a Stipulation and Order was entered by the Court wherein (i) the Government recognized the superior interest of Athlete-1, Athlete-2, and Athlete-3 (the “Petitioners”) in the Athlete Funds and agreed to return the Athlete Funds to the Petitioners; and (ii) the Petitioners withdrew any claims of interest to the remaining \$2,989,651.89 of the Specific Property (the “Forfeitable Funds”);

WHEREAS, thirty (30) days have expired since final publication of the Notice of Forfeiture and no petitions or claims, other than Petitioners, to contest the forfeiture of the Forfeitable Funds have been filed;

WHEREAS, the Defendant, the Noticed Parties and the Athletes are the only individuals and/or entities known by the Government to have a potential interest the Forfeitable Funds;

WHEREAS, pursuant to Title 21, United States Code, Section 853(n)(7), the United States shall have clear title to any forfeited property if no petitions for a hearing to contest the forfeiture have been filed within thirty (30) days of final publication of notice of forfeiture as set forth in Title 21, United States Code, Section 853(n)(2);

WHEREAS, on or about January 30, 2024 this Court entered a Final Order of Forfeiture (D.E. 104) (the “Final Order of Forfeiture”) forfeiting all right, title and interest in \$2,989,651.89 in United States currency formerly on deposit in California Bank & Trust, a division account of Zions Bancorporation, N.A., account number 7200225370, held in the name of Johnson, Bjornlie & Merritt Clients Trust Account, seized by the Government on or about March 23, 2023 (the “Forfeited Funds”);

WHEREAS, the description of the Forfeited Funds contained a mathematical clerical error which incorrectly stated the amount of the Forfeited Funds to be \$2,989,651.89 in United States currency rather than the correct amount of \$2,989,652.09 in United States currency; and

WHEREAS, pursuant to Rule 36 of the Federal Rules of Criminal Procedure, “the court may at any time correct a clerical error in a judgment, order, or other part of the record”;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title and interest in \$2,989,652.09 in United States currency, formerly on deposit in California Bank & Trust, a division account of Zions Bancorporation, N.A., account number 7200225370, held in the name of Johnson, Bjornlie & Merritt Clients Trust

Account, (the “Amended Forfeited Funds”) is hereby forfeited and vested in the United States of America, and shall be disposed of according to law.

2. Pursuant to Title 21, United States Code, Section 853(n)(7) the United States of America shall and is hereby deemed to have clear title to the Amended Forfeited Funds.

3. The United States Marshals Service shall take possession of the Amended Forfeited Funds and dispose of the same according to law, in accordance with Title 21, United States Code, Section 853(h).

Dated: New York, New York
April 16, 2024

SO ORDERED:

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first letter "V" is large and prominent. The signature is positioned above a horizontal line.

HONORABLE VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE